

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**STATE OF MISSOURI**

**v.  
WILLIAM DARRELL JOYNER**

**RESPONDENT,**

**APPELLANT.**

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DOCKET NUMBER WD76857

DATE: April 21, 2015

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Appeal From:

Macon County Circuit Court  
The Honorable Frederick P. Tucker, Judge

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Appellate Judges:

Division One: Cynthia L. Martin, Presiding Judge, Thomas H. Newton, Judge and Mark D. Pfeiffer, Judge

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Attorneys:

Evan J. Buchheim, Jefferson City, MO, for respondent.

William J. Swift, Columbia, MO, for appellant.

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**STATE OF MISSOURI,**

**RESPONDENT,**

**v.**

**WILLIAM DARRELL JOYNER,**

**APPELLANT.**

No. WD76857

Macon County

Before Division One: Cynthia L. Martin, Presiding Judge, Thomas H. Newton, Judge and Mark D. Pfeiffer, Judge

William Darrell Joyner appeals from the trial court's judgment convicting him of one count of aggravated stalking in violation of section 565.225. Joyner asserts that the trial court erred in overruling his counsel's objection and request for a mistrial when his twelve-year-old victim testified that she was afraid of Joyner because he was a registered sex offender, and in overruling his counsel's objection to the State's discussion of this testimony during closing argument.

**REVERSE AND REMAND.**

**Division One holds:** Joyner's status as a registered sex offender is prior uncharged conduct that is inadmissible propensity evidence unless it has some legitimate tendency to establish directly the defendant's guilt of the charge for which he is on trial based on a recognized exception.

Pursuant to section 565.225, aggravated stalking is a specific intent crime, requiring the State to prove that Joyner engaged in a course of conduct to purposely harass the victim. "Harass" is defined as a course of conduct that would cause a reasonable person under the circumstances to be frightened, intimidated, or emotionally distressed.

The State argues that "under the circumstances" should be construed to permit the victim's subjective knowledge of Joyner's status as a registered sex offender to be considered in determining how a reasonable person would react to the defendant's conduct. However, were we to construe "under the circumstances" so broadly, the statutory definition of "harass" would obviate the specific intent requirement of the crime of aggravated stalking, as it would subject a defendant to conviction based solely on information possessed by a victim without regard to whether the victim's knowledge is relevant to establish the defendant's intent to harass. We thus construe the phrase "under the circumstances," when referring to a victim's subjective knowledge of prior uncharged conduct, to require evidence permitting the inference that the defendant was aware of the victim's knowledge, and thus permitting the inference that the defendant intended to harass through a course of conduct the defendant knew would be influenced by the victim's knowledge.

Here, there was no evidence permitting the inference that Joyner was aware of the victim's knowledge of his status as a registered sex offender, and thus no evidence permitting the inference that Joyner was aware his charged course of conduct would couple with the victim's knowledge to cause a reasonable person to feel frightened, intimidated or emotionally distressed "under the circumstances." In short, there was no evidence permitting the inference that the victim's subjective knowledge was logically relevant to establish Joyner's intent to harass through his course of conduct.

The record does not support the admission of the victim's testimony for any other recognized exception to the prohibition against admitting evidence of prior uncharged conduct, and the State makes no argument to the contrary. The victim's testimony about Joyner's status as a registered sex offender was thus inadmissible propensity evidence. Under the circumstances in this case, the victim's testimony was outcome determinative, requiring reversal of Joyner's conviction and remand for a new trial.

Opinion by Cynthia L. Martin, Judge

April 21, 2015

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